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International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations on the combined seventeenth to twenty-second periodic reports of Cyprus

Addendum

Information received from Cyprus on follow-up to the concluding observations*

[Date received: 14 July 2014]

1. In accordance with article 9, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination and rule 65 of its amended rules of procedure, the Committee on the Elimination of Racial Discrimination (CERD), in its concluding observations on the seventeenth to twenty-second periodic reports of Cyprus (CERD/C/CYP/17-22), adopted by it at its eighy-third session (12–30 August, 2013) (CERD/C/CYP/CO/17-22), requested Cyprus to provide information, within one year of the adoption of its conclusions, on its follow-up to the recommendations contained in paragraphs 13, 20 and 23 of the concluding observations.

2. Cyprus has prepared an interim Report ("present Report") to provide information on recommendations 13, 20 and 23. The present Report has been prepared in line with the guidance provided by the Secretariat of the CERD.

3. The present Report has been prepared by the Law Commissioner of Cyprus, who, pursuant to a Decision of the Council of Ministers (Decision No. 38.958, dated 25/2/1993), is entrusted with ensuring compliance by Cyprus with its reporting obligations under international human rights instruments. It was compiled on the basis of information and data provided by the Ministries and Services having competence for the specific matters. Information was also obtained from the Ombudsman, the Anti-Discrimination Body (ADB), and the Cyprus Radio Television Authority (CRTA).

4. Due to the continued illegal foreign occupation of 36.2% of the territory of the Republic of Cyprus, the Government is not in a position to exercise effective control over all of its territory and cannot ensure the application of the International Human Rights Instruments or take measures in order to comply with recommendations of international

* The present document is being issued without formal editing

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Human Rights Committees, in areas not under its effective control. This is a fact reflected in the Report of the Office of the United Nations High Commissioner for Human Rights on the Question of Human Rights in Cyprus (A/HRC/22/18). As a consequence, the Government of the Republic of Cyprus is unable to ensure full realization of its policies and to apply its laws, policies and programmes concerning human rights, and elimination of all forms of racial discrimination to those living at the occupied areas. It is relevant to recall that the accession of Cyprus to the European Union was subject to Protocol 10 of the 2003 Act of Accession, according to which the application of the acquis is "suspended in those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control". Consequently, all information and data presented in the present Report, concern the Government-controlled areas.

5. Cyprus has been under increasing pressure in financial markets, against the background of rising concerns about the sustainability of its public finances, including its weakened financial sector and the scale of potential public support measures. Some of the imbalances have emerged as a result of negative spill-overs from the euro-area crisis. Other imbalances have been domestic and longer-lasting. Against the background of these severe economic and financial disturbances, the Cypriot authorities officially requested financial assistance in the form of a loan from the European Financial Stability Facility/European Stability Mechanism on 25 June 2012, as well as from the International Monetary Fund (IMF), with a view to supporting the return of the economy to sustainable growth, ensuring a properly-functioning banking system, and safeguarding financial stability in the European Union and in the euro area. On 16 March and 25 March 2013, the Euro group reached a political agreement with the Cypriot authorities on the key elements of a macroeconomic adjustment programme for Cyprus with a financial envelope of up to EUR 10 billion, which included the restructuring and substantial downsizing of the banking sector and the reinforcement of efforts on fiscal consolidation, structural reforms and privatization. In April 2013, an agreement was reached in respect of a comprehensive policy package to be implemented in a 3-year macroeconomic adjustment programme; the key objectives, measures and outcomes were laid down in a draft Memorandum of Understanding (MoU) between the Commission and the Republic of Cyprus.

6. The macroeconomic adjustment programme aims at restoring financial market confidence, re-establishing sound macroeconomic balances and enabling the economy to return to sustainable growth. To achieve these goals, the programme builds on three pillars. The first pillar is a financial sector strategy based on restructuring and downsizing of its financial institutions and strengthening its supervision, with efforts to address capital and liquidity shortfalls. The second pillar is an ambitious fiscal consolidation strategy, building on the consolidation efforts initiated in 2012, in particular through measures to reduce current primary expenditure, enhance government revenues, improve the functioning of the public sector and maintain fiscal consolidation in the medium-term. The good implementation of Structural and other European Union Funds, as well as European Union policy initiatives aimed at enhancing jobs and growth, is envisaged to be enhanced further. This will contribute to the long-term growth path for Cyprus. The third pillar consists of an ambitious structural reform agenda, with a view to supporting competitiveness and sustainable and balanced growth, in line with country-specific recommendations addressed to Cyprus in 2012, and allowing for the unwinding of macroeconomic imbalances. Recalling the political agreement of 28 February 2013 on a Council Recommendation on Establishing a Youth Guarantee, opportunities for young people and their employability prospects should be maintained.

7. The present Report provides information on recommendations 13, 20 and 23 focusing on the developments in legislation, administration, government policies and National Action Plans (NAPs), from August 2013 onwards ("period under review").

Recommendation in paragraph No. 13 of the concluding observations (CERD/C/CYP/CO/17-22) — "Racist hate speech"

"The Committee is concerned at the use of racist discourse by some politicians and in the media which vilifies and promotes prejudices against persons of foreign origin in the State party (arts. 4 and 5).

"The Committee recommends that the State party strongly condemn the use of racist discourse by politicians and in the media. Furthermore, recalling that incitement to racial discrimination is outlawed in the State party, the Committee urges it to thoroughly investigate and, where appropriate, prosecute such acts."

8. Cyprus intensified its efforts in its fight against xenophobia and more specifically, against racist hate speech, (including hate speech articulated by politicians and public figures), and in the media in general. The fight against xenophobia and hate speech is a continuous process and it is high on the Government's agenda under the title "Policy on Security". The Government, on numerous occasions, expressed its commitment for zero tolerance of racist acts, including racist hate speech and it continues to take concrete measures at all levels:

9. Anti-discrimination commitments were made and messages were sent by Ministers (e.g. the Minister of Justice and Public Order, the Minister of Interior and the Minister of Finance) and independent Officials (e.g. the Law Commissioner, the Ombudsman and the Commissioner for Children's Rights) during various public events and in publications.

10. Concerning legislation, pursuant to a Bill amending the *Press Law* (Section 17), which is currently under consultation by the relevant authorities and institutions, a person responsible for a newspaper where an incorrect publication which is offensive to a person appears, is obliged to publish a relevant correction. To that effect, the Cyprus Media Complaints Commission has also issued guidelines to be followed by the media.

11. Regarding prosecution of acts involving hate speech, on 11 September 2013, pursuant to section 18B of the *Law on Cyprus Broadcasting Corporation, CAP 300A*, which provides that "the *Corporation is prohibited from broadcasting programmes which contain incitement of hate based on race, gender, religion or ethnic origin*" a fine was imposed on CyBC by the CRTA because a guest in a TV show made racist, xenophobic and offensive remarks (case No. 53/2013(68)).

12. Another case investigated by the CRTA, case No. 55/2013(3) of 30 October 2013, concerned the broadcast by a private TV channel, of a reportage on 18 June 2013 in which language was used in such a way that could be offensive to people of foreign origin. The CRTA imposed a fine for violation of Regulation 25(3)(a) of the *Radio and Television Stations Regulations 2000* (10/2000), which refers to the use of language in such a way that it may offend the sensitivities of foreigner people.

13. During the period under review, there have been no incidents of broadcast of racist discourse articulated by politicians.

14. In the media, a "No HATE Speech" campaign was launched on TV, with the participation of renowned Cypriot athletes, including Olympic winners.

15. In the framework of the "NO HATE" campaign of the Council of Europe, on 21 March 2014, the International Day against Racism, the Youth Organization of Cyprus, in cooperation with the ADB, drafted a glossary of main terms pertaining to racism and discrimination. The glossary was disseminated to high school pupils and youth groups. The Office of the Ombudsman also cooperates with the Union of Cypriot Journalists in order to create a similar glossary for use in the media in general.

Recommendation in paragraph No. 20 of the concluding observations — "Migrants' Rights"

"Migrants

The Committee is concerned at the discrimination experienced by migrants, inter alia, in accessing employment and housing, which is exacerbated by a climate of austerity measures resulting from the current economic downturn, and the increasing discriminatory attitudes and racial stereotypes relating to persons of foreign origin. (art. 5).

The Committee recommends that the State party step up efforts to protect the rights of migrants by combating racial stereotypes and discriminatory attitudes, including through awareness-raising campaigns, and by enforcing legislation against racial discrimination in all fields of public life. The Committee calls on the State party to include specific action to that effect in the 2013–2015 National Action Plan for the integration of third-country nationals legally residing in Cyprus (NAPITCNLRC). The Committee draws the attention of the State party to its general recommendation No. 30 (2004) on discrimination against non-citizens."

16. Cyprus's determination to safeguard the rights of migrants is evident through the series of measures it has taken and will continue to do so in order to balance the need for an effective immigration system and safeguarding of the rights of migrants, and, at the same time, to promote a more coordinated and effective approach among the competent authorities.

17. Within this framework, the Government has decided to initiate a revised *National Action Plan* for *the Integration of Third-Country Nationals Legally Residing in Cyprus* (NAPITCNLRC) to cover the years 2014–2016. The new NAPITCNLRC duly takes into consideration the comments, concluding observations and recommendations made by treaty bodies in relation to country reports submitted by Cyprus, such as the CERD, in an effort to address any shortcomings of the previous NAPITCNLRC. The new NAPITCNLRC will be the outcome of consultation among competent authorities, national independent monitoring mechanisms, NGOs, civil society and social partners. Its key elements will include, inter alia, social inclusion and protection of vulnerable individuals, anti-discrimination and anti-racist policy actions.

18. Regarding legislation, a recent development was the enactment of Law L.7(III)/2014, ratifying the Cooperation Agreement between Cyprus and the International Organization for Migration (IOM) of 13/6/2014. Based on this Law, the IOM will operate an office in Cyprus, providing advisory and technical services regarding immigration, international immigration law, combating of trafficking, irregular migrants' returns, voluntary repatriation, internally and externally displaced persons and other persons in need, resettlement programmes etc. This Law is considered a milestone, in that it will serve as a useful and comprehensive tool to effectively address the multifaceted issue of irregular migration.

19. Enforcement of anti-racist legislation is of paramount importance as it is an indicator that human rights are indeed safeguarded. Regarding cases which involve discrimination, the Police recorded eight (8) such cases for the year 2013; out of these, five (5) were investigated as records of criminal investigation, four (4) of which have been taken to Court as criminal prosecution; one (1) was concluded and a fine was imposed by the Court. In relation to the year 2014, no information can yet be provided, as the relevant Police data are issued on an annual basis at the end of each year of reference. Additional information on Police statistics on criminal cases and incidents of a racial nature or with a racial motive for

the period 2005–2013 is available to the public through the Police website: **Error! Hyperlink reference not valid.**

20. In relation to access to employment by migrants, their right to equal treatment is, as stated in previous country reports of Cyprus, safeguarded through national legislation, specifically, with the *Equal Treatment Regardless of Race or Ethnic Origin in Employment Law* [L.59(I)/2004] which provides for, inter alia, equality in treatment for people irrespective of their racial or ethnic origin in access to work, conditions of employment and/or dismissals and pay and access to vocational training, among other things. Equal treatment of foreign workers as regarding terms and conditions of employment (hours of work, salary and other benefits, holidays, overtime pay, duties etc.) is also safeguarded through written contracts signed by the employer and the foreign employee. Terms and conditions of employment are in accordance with the terms of the relevant collective agreements signed by employers' and workers' organizations. In relation to complaints submitted by foreign workers, a specifically formulated mechanism of examination is in place, under the Department of Labour Relations.

21. In education, the Ministry of Education and Culture (MOEC), following a recommendation by the ADB, has drafted a Code of Conduct against racism in schools taking into account the views of experts in the field of intercultural and antiracist education. The Code of Conduct provides for research and policy against racism in all forms. It also provides guidance to schools and teachers on how to prevent and/or deal with racist incidents. The Code of Conduct has been reviewed and is expected to be applied on a pilot basis in a number of schools as of the new school year, starting in September 2014. The Code was officially presented to the public by the Minister of Education and Culture and the ADB at a press conference on 13/6/2014. It is expected that this Code will contribute to the decrease of bullying and discrimination based on religion, ethnicity, language, appearance, disability, and gender. Moreover, a primary school teachers' handbook was electronically published in March 2014 with indicative activities for dealing with diversity through Health Education. The handbook includes activities for the promotion of empathy, the challenge of stereotypes, the awareness of the multiple forms of exclusion and their consequences, respect for all forms of diversity, etc.

22. What is more, the multidisciplinary team of experts "*Task Force on School Violence*" continues its work in providing immediate support and guidance to schools facing emergencies of violence and youth delinquency, including incidents of racism. The team works closely with other competent state authorities and NGOs. Through the team's interventions in schools, vulnerable pupils receive psychological support on a regular basis. The Observatory on Violence in Schools, the Educational Psychology Service and the Career Counseling and Educational Service are also dealing with issues related to racism and fall within their competence in a systematic way, with an ultimate aim to combat racial stereotypes and discriminatory attitudes in schools. During the school year 2013–2014, the team was requested to offer its services in 180 cases. Out of these cases only one involved an incident of racism in a primary school. The team developed a number of different actions for this particular case and its intervention is still in progress.

Recommendation in paragraph No. 23 of the concluding observations — "National Human Rights Institution"

"Noting the adoption of law L.158(I)/2011 entrusting the mandate of a national human rights institution to the Ombudsman, the Committee notes with concern that the institution is not empowered to recruit its own personnel and, according to reports, is not provided with the necessary resources for the effective exercise of its very broad mandates (art. 2).

The Committee calls on the State party to guarantee the full operational independence and financial autonomy of the Ombudsman and to ensure that it is fully compliant with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134, annex). The Committee also recommends that the State party seek accreditation by the International Coordinating Committee of National Human Rights Institutions."

23. The operational independence of the Office of the Ombudsman is guaranteed in specific Laws which confer on the Ombudsman rights and powers in relation to her mandate. For example:

- *The Combating of Racism and Other Forms of Discrimination (Commissioner) Law* [L.42(I)/2004], vests the Ombudsman with special competences, duties and powers to act as the ADB and Equality Authority, for combating and elimination of direct or indirect discrimination in the Public and Private Sector, on grounds of age, race, community, langua[illegible]r, religion, political or other belief, and national or ethnic origin.

- *The Equal Pay Between Men and Women for the Same Work or for Work to which Equal Value is attributed Law* [L.177(I)/2002], which was amended by L.38(I)/2009, grants the Ombudsman authority to independently examine complaints in relation to equal pay between men and women and to safeguard the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.

- *The Equal Pay Between Men and Women for the Same Work or for Work to which Equal Value is attributed Law* [L.177(I)/2002], was amended by L.38(I)/2009, grants the Ombudsman authority to independently examine complaints in relation to equal pay between men and women and to safeguard the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.

- *The Commissioner for Administration Law* [L.3/1991], as amended by L.158(I)/2011, vests the Ombudsman with the power to act as the National Independent Authority for Human Rights and has extensive powers in the promotion and protection of human rights The Institution is in the process of applying to the OHCHR for accreditation in 2014 (see also A/HRC/WG.6/18/CYP/1, paras. 8–10).

24. Regarding financial independence of the Office of the Ombudsman, the financing of its operations relies on a dedicated budget assigned directly to the Ombudsman. Despite the severe economic constraints Cyprus is facing, the budgetary appropriations of the Office of Ombudsman have not been decreased (as was the case for all government departments and also other similar independent authorities) nor has the Ombudsman requested any increase in its budgetary appropriations, given the current financial constraints which have inevitably affected all areas.